



JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING



STEVEN E. CHESTER
DIRECTOR

January 30, 2007

1. Bill Number and Sponsor:

House Bill 4047
Representative Kate Ebli et al.

2. Purpose:

House Bill 4047 would amend Part 115, Solid Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, by adding Section 11511c to impose a moratorium on new landfill construction and expansions (with some exceptions) until January 1, 2012.

The bill allows the Department of Environmental Quality (DEQ) to issue a permit for a design modification as long as the modification does not result in a net increase in remaining disposal capacity. The bill also allows the DEQ to issue a permit to expand an existing landfill if less than three years remaining disposal capacity are available, as long as the expansion provides no more than a total of eight years remaining disposal capacity. In addition, the DEQ may issue permits for the construction of a Type III captive facility.

3. How Does This Legislation Impact Current Programs in the Department?

This bill would prevent the DEQ from issuing landfill construction permits except in certain circumstances and would be retroactive to reject any construction permits received, but not yet issued, between December 31, 2005, and the effective date of the bill.

4. Introduced at Agency Request:

No.

5. Agency Support:

Yes. However, DEQ does not believe that this bill should prevent issuance of construction permits for landfills where the DEQ is already processing an administratively complete application. One way to accomplish this would be to use the following language:

Change Section 11511c to state: "The Department shall not issue a permit to construct a landfill if the administratively complete application for such permit was received after the effective date of this amendatory act and before January 1, 2012."

6. Justification for the Department's Position:

Michigan has approximately 18 years of existing landfill capacity statewide. This capacity is not necessarily reflective of local needs in any particular area. However, the moratorium would not prevent capacity from being sited if the local capacity need were to fall below the minimum criterion. Excess disposal capacity, such as that which currently exists, creates an inefficient use of Michigan's resources. A moratorium would allow time to revisit Michigan's solid waste planning and disposal facility siting policies and would also help to create a closer correlation between the amount of disposal capacity needed in Michigan and the amount of capacity available, which could result in a more effective solid waste planning process.

The DEQ believes that Michigan should address a Solid Waste Policy in a broader context, including reducing waste generation, diverting materials from disposal, ensuring appropriate disposal capacity, and applying safeguards to protect public health and the environment when disposal does occur. A comprehensive Solid Waste Policy would:

- Support efficient and economical source reduction, reuse, and recycling, in that order of preference;
- Ensure Michigan responsibly manages the solid waste it generates;
- Ensure safe, environmentally sound solid waste disposal; and
- Assist Michigan with participating with other states and countries in an equitable system for waste disposal.

7. State Revenue/Budgetary Implications:

A small amount of revenue gained from construction permit application fees would be lost. This has amounted to an average of \$12,000 a year (average from Fiscal Year 2002 through Fiscal Year 2006).

8. Implications to Local Units of Government:

This bill may temporarily prevent the siting of new landfills or expansion of existing landfills owned or operated by local units of government.

9. Administrative Rules Implications:

None.

10. Other Pertinent Information:


A moratorium on new landfill construction and expansions from January 1, 2004, to December 31, 2005, was imposed by 2004 PA 38 (Act 38). The language of Act 38 is very similar to the language of House Bill 4047, although the exception that allowed for expansions required the landfill to demonstrate less than five years

of remaining disposal capacity. Permits issued under that exception could not result in more than a total of ten years remaining capacity. The DEQ's proposed amendment in support of this bill is modeled after that previous moratorium.

The bill does not include provisions that were included in Act 38 including a definition of "existing landfill," which provided a defined date by which the landfill would have to receive waste in order to be considered existing. In addition, the previous legislation creating a moratorium included a provision to allow the DEQ to issue a construction permit if the expansion is authorized pursuant to a host community agreement that was already in existence.

The DEQ supported similar bills in the past, House Bill 4760 of 2005 and House Bill 5773 of 2006, that allowed for expansions when less than three years of disposal capacity remained.

The DEQ does not see the moratorium as applying to a construction permit issued for a research, development, and demonstration project (RDDP), as it would qualify for the exception that allows for issuance of a permit for a design modification at a landfill provided it does not result in a net increase in remaining disposal capacity. Therefore, this bill does not conflict with Section 11511b of Part 115 on RDDPs that was enacted in November 2005.

A handwritten signature in black ink, appearing to read "S. E. Chester", is positioned above the printed name and title.

Steven E. Chester, Director
Department of Environmental Quality

